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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

In re DANTE S., a Person Coming Under
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

DANTE S.,

Defendant and Appellant.

A095404

(Alameda County
Super. Ct. No. J176485)

Following a contested jurisdictional hearing, allegations of grand theft and receiving stolen property were sustained against the minor Dante S. He was committed to camp and now appeals, contending that there was insufficient evidence to sustain the allegations and that the charge of receiving stolen property either merged with the grand theft charge (requiring reversal of the finding on that count) or that Penal Code¹ section 654 precludes separate punishment for that charge. We find that substantial evidence supports the trial court's finding on the grand theft count and affirm that finding, but reverse the finding on the charge of receiving stolen property, respondent having conceded that section 496 precludes conviction (or true findings) on both allegations.

¹ All further section references are to the Penal Code.

I. BACKGROUND

Evidence adduced at the jurisdictional hearing showed that the minor, along with Derek Bringham, was at the home of Vanessa Vasques on August 5, 2000.² Vanessa Vasquez had a party at her home while her mother Maria Brizenbine went out to dinner. Derek saw the minor walking downstairs, by himself, from the second floor of Vanessa's home, where the master bedroom is located. After Derek and the minor left Vanessa's home that evening, Derek saw the minor showing a tennis bracelet that belonged to Vanessa's mother to some of his friends. Although he did not remember what the minor said about the bracelet, he was sure that the minor did not say he had found it.

On August 27, Maria Brizenbine was working at Nordstrom when the minor approached her with a bracelet, asking if she wished to purchase it. She recognized the bracelet as being her own, took it from him, and asked the minor where he obtained it. He responded that his grandmother gave it to him. The minor took back the bracelet and departed quickly. Maria checked her jewelry box when she returned home and discovered that her bracelet, for which she had paid \$5,000, was missing. That evening, Derek brought the bracelet back to Maria, at the minor's request.

On August 18, the minor was interviewed by a sheriff's deputy and indicated that he had found the bracelet on the curb, and that he had not tried to locate the owner. He acknowledged that he had shown the bracelet to Maria at Nordstrom and that she had recognized it as her own. Nevertheless, the minor admitted, he grabbed the bracelet back and left the store. He did not explain this conduct. He said that he gave the bracelet to Derek to return to Maria.

A petition was filed alleging that the minor committed grand theft, grand theft from the person, and receiving stolen property. At the contested jurisdictional hearing the trial court found the grand theft and receiving stolen property allegations to be true and found not true the allegation of grand theft person.

² All further references are to the year 2000.

II. DISCUSSION

A. *Sufficiency of the Evidence.*

Our role in assessing a claim of insufficiency of evidence is clear. We are to “review the whole record in the light most favorable to the judgment to determine whether it discloses substantial evidence—that is, evidence that is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.” (*People v. Rodriguez* (1999) 20 Cal.4th 1, 11.) When the prosecution’s case is based primarily on circumstantial evidence, “ ‘it is the [trier of fact] which must be convinced of the defendant’s guilt beyond a reasonable doubt. ‘ “If the circumstances reasonably justify the trier of fact’s findings, the opinion of the reviewing court that the circumstances might also reasonably be reconciled with a contrary finding does not warrant a reversal of the judgment.” ’ ’ ’ ’ ” (*Ibid.*) In order to warrant a reversal of the court’s findings, appellant must establish that no rational trier of fact could have found the essential elements beyond a reasonable doubt. (*People v. Sanchez* (1995) 12 Cal.4th 1, 31-32.)

In the present case there is ample evidence to support the trial court’s findings. The minor was present at the scene of the theft. He was seen coming downstairs from the second floor of the victim’s residence, where the master bedroom from which the bracelet was taken is located. He was in possession of the stolen bracelet shortly after he left the residence. He gave conflicting explanations as to how he came to be in possession of the stolen property. After the victim took the bracelet from him at Nordstrom, the minor grabbed it back for reasons he did not explain to the police. The totality of this circumstantial evidence supports the trial court’s determination that he committed the theft and was in knowing possession of stolen property. The fact that other explanations might also be possible does not mean there is insufficient evidence to support the trial court’s findings. (*People v. Rodriguez, supra*, 20 Cal.4th at p. 11.)

B. Receiving Stolen Property Finding.

As the respondent concedes, section 496, subdivision (a) itself provides that “A principal in the actual theft of the property may be convicted pursuant to this section. However, no person may be convicted both pursuant to this section and of the theft of the same property.” The finding of true as to the receiving stolen property allegation is therefore reversed.

III.
CONCLUSION

The true finding on the allegation of receiving stolen property is reversed and the abstract of judgment is ordered amended to reflect a maximum confinement term of three years.³ In all other respects the judgment is affirmed.

Sepulveda, J.

We concur:

Reardon, Acting P.J.

Kay, J.

³ Having reversed the finding on the receiving stolen property allegation, the minor’s contentions regarding section 654 are rendered moot.